

The Research Review is a publication of the Research Division of the Tennessee House of Representatives

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**Treasurer Adams: "Tennessee's Financial Challenge" On Page 7.**

**House Committee Activity: April 29 - May 1, 2002**



*Representative Gene Caldwell and Representative Phillip Pinion talk briefly before the beginning of the House Education Committee's meeting this past Tuesday. (Representative Beth Halteman Harwell is also shown.) The Committee will meet again next week to hear budget presentations from the Department of Education, the State Board of Education, the University of Tennessee, the Tennessee Board of Regents and the Higher Education Commission.*

### **Agriculture**

*Ryan Swindell*

The full **Agriculture Committee** did not meet this week.

The **subcommittees** are closed.

### **Children & Family Affairs**

*Shannon Romain*

The **Children and Family Affairs Committee** and its subcommittees are closed.

### **Commerce**

*Chris McGrew*

The **House Commerce Committee** had four bills on the calendar and moved out to FWM. **HB 2465** would exempt Franklin County from regulations governing general contractor regarding construction of dwellings on private property for the purpose of resale. **HB 2840** would put vacation lodging services under the same rights and responsibilities and brokers. **HB 1600** "Tennessee Plumbing Trades Act" was put into a study committee in order resolve issues concerning the plumbing industry.

The **Utilities & Banking Subcommittee**

met prior to full committee and passed HB 2465 and HB 2840.

## **Conservation & Environment**

*Greg E. Adkins*

The **Conservation & Environment Committee** and its subcommittees are closed.

## **Consumer & Employee Affairs**

*Shannon Romain*

The **Consumer & Employee Affairs Committee** and its subcommittees are closed.

## **Education**

*Jessica Peccolo*

The **Education Committee** met this week on Monday evening and then again on Tuesday morning. Monday's meeting focused on **HB 3136** (Whitson), the Education Reform Act of 2002. This bill is very similar to the education reform act passed last year. The bill last year was drafted so that it would be null and void if not funded in the 2001-2002 budget, thus making it necessary to introduce HB 3136 this year. The following components are included in the Education Reform Act of 2002:

- \* Two-year reading instruction grants awarded by the Commissioner of Education to qualifying schools.
- \* Reading collaboratives formed with institutes of higher education to provide professional development for educators.
- \* Remediation programs for students in grades 7-12 who are at risk of not passing Gateway exams required to graduate.
- \* Early childhood education programs aimed to reach 4-year olds across the state.
- \* Incentives for teachers who seek National Board Certification
- \* Scholarships to encourage quality individuals into the teacher profession

- \* Increased funds for family resource centers
- \* Mentoring programs for new teachers
- \* Additional funds for classroom supplies

Members of the Education Committee spent several meetings discussing this bill. During those discussions, two amendments were adopted. Amendment one corrects typographical errors found in the original bill. The second amendment removes sections of the bill that deal with accountability measures. These sections were removed because accountability measures are already established in **HB 3159** (Montgomery) that was previously passed by the committee. Amendment 1 to Amendment 2 was adopted after an Attorney General's opinion that the sections in the bill that delegate the setting of funding priorities to the Commissioner of Education might be deemed unconstitutional. Amendment 1 to 2 deletes those sections from the bill. The bill was passed as amended to the Finance Committee to go behind the budget.



On Tuesday morning the Education Committee completed its calendar. **HB 2901** (Scroggs) clarifies how extended contract money is to be spent by LEA's. Under the new legislation, extended contract funds may be spent for remediation or enrichment. The percentage of extended contract

funds to be spent on remediation is equal to 1.5 times the percentage of students performing at a deficient level. The remainder of funds may be spent on enrichment programs. All extended contracts are subject to funding. The committee adopted the amendment that rewrites the bill and passed it to Calendar and Rules.

The following other bills were also passed to the Calendar and Rules Committee:

- \* **HB 2316** (Cooper) requires that reading instruction be a mandatory component of teacher training.
- \* **HB 2617** (Towns) asks the Commissioner of Education to regularly review and update safe schools and zero tolerance policies.

\* **HJR 0646** (Bowers) encourages school lunch and snack programs to serve students more calcium rich foods and beverages.

**HB 2549** (Davis, D) requires public school students to recite the pledge of allegiance daily unless the students or parent object to participating in the pledge. An updated fiscal note placed a one-time, \$25,000 expenditure on the legislation for those classrooms who do not currently have flags in the classroom to purchase the flags. Representative Pinion proposed Amendment I, which called for all classrooms without flags to receive them through donation so that the fiscal note would no longer be valid. Amendment II says that this legislation may not be implemented in a school until the LEA has approved the measure by a majority vote. The amended bill was passed to the Finance Committee.

Both **HB 2411** and **HB 2264** were placed in Education Oversight for study during the off session.



*Chairman Winningham requested that Education Commissioner Taylor (pictured) give a report at the committee meeting next week.*

This completes the calendar for the Education Committee. The committee will meet next week to hear testimony from K-12 and Higher Education officials. Prior to the beginning of the meeting however, the **Higher Education Subcommittee** will reopen to hear two bills - **HB 2347** (Givens) and **HB 1318** (Davidson). **HB 2347** amends current law relative to educational benefits available to veterans and their dependents. **HB 1318** reclassifies individuals as persons, relative to the BEST program (Baccalaureate Education System Trust).

#### **K-12 Subcommittee**

THE K-12 SUBCOMMITTEE IS CLOSED.

*(The Research Review continues in the next column.)*

## **Finance, Ways & Means**

*Cathy Higgins*

### **Finance, Ways and Means Committee Tuesday, April 30, 2002**

The full committee had 16 bills on calendar. **HBs 2105, 2546, and 3043** were rolled one week at the sponsor's request. **HB 1595** was referred back to Budget Subcommittee. The remaining bills were referred to Calendar and Rules.

**HB 3132 (Kisber)** from Judiciary changes how the Administrative Office of the Courts will count a criminal case for the purposes of tracking caseload statistics. Revenue that the local governments receive from the court clerks' fee for data entry will be used for the purpose of purchasing, upgrading, and maintaining computer equipment for a period of five years.

**SJR 584 (Caldwell)** urges Congress and the President to fully fund the modernization of the Y-12 National Security Complex in Oak Ridge.

**HB 1985 (Bittle)** from Transportation allows the Department of Safety to transfer information contained on Tennessee driver license applications to the federal selective service system. As amended in Finance, the act shall take effective December 1, 2002 and apply to all male US citizens or immigrants at least 18 years of age but less than 26 who are applying for a driver's license. The act is effective only if the Federal Selective Service System pays for the computer programming fees.

**HB 3109 (Boyer)** permits home rule municipalities to recover actual administrative costs as a result of false threats or hoaxes involving biological weapons, destructive services, or weapons of mass destruction. The municipality would have to adopt an ordinance to prohibit this type of activity.

**2570 (Buck)** from Judiciary, creates a uniform fee schedule for fees that sheriffs and constables can charge for process services.

**HB 2984 (Ford)** from Education. As amended in Finance, it requires that contracts for construction management services are through a request-for-proposal process only (RFP). This amendment also specifies that contracts for school construction work under the supervision of a construction manager be through the competitive bid process. It prohibits a construction manager from the bid process, unless bids have been solicited twice and no bids have been submitted from other parties. It permits a

school system, at its own discretion, to perform work on the project with its own employees. It also directs the comptroller to conduct a study on the impact of this act and on the use of construction managers in the school building projects. The report to the General Assembly is due no later than January 31, 2005, with recommendation.

**HB 2889 (Lewis)** from Commerce, enacts the "Tennessee Insurance Producer Licensing Act of 2002."

**HJR 789 (Newton)** names a highway in Bradley County in honor of "Sheriff Israel Smith."

**HB 2476 (Patton)** from Children and Family Affairs, requires the court to submit the basis for a determination of custody in writing to each party, the findings predicated upon the best interest of the child. Nothing under these provisions shall interfere with a party's right to incorporate a parenting plan into a final decree or into a modification to an existing custody order.

**HB 2796 (Ridgeway)** from Transportation, licenses low speed motor vehicles. It implements a low-speed vehicle registration fee of \$9.50, and a class D driver's license would be required to operate the vehicle. It permits a county or municipality to prohibit the operation of these type vehicles on roads in their jurisdiction.

**HB 1404 (Todd)** enacts the "Interstate Compact for Supervision of Adult Offenders." As amended in Finance, any cost incurred to implement the Compact will be funded within existing resources of the Board of Probation and Parole. The act will take effect the latter of July 1, 2002, or upon enactment of the Compact, by no less than 35 states.

**HB 2652 (Turner, Brenda)** from Judiciary, authorizes the courts in Hamilton County to assess a blood alcohol test fee when a defendant is convicted of a DUI or DWI offense. The fee would be established by the county legislative body and would not exceed \$50.00. This amendment clarifies that the fee would be assessed only if a blood sample actually is taken from the defendant and the test actually is performed on the sample.

#### **Budget Subcommittee Wednesday, May 1, 2002**

Budget Subcommittee had 45 bills on calendar this week. Several were rolled to future calendars. HB 2343, 2605 and 2828 were taken off-novice.  
Bills referred to committee:

**HB 2502 (Kernell)** from Agriculture. As amended in Budget Sub, "urges" the Commissioner of Agriculture, in consultation with the Tennessee Forestry Commission, to study cost recovery methodologies for forest protection services on private forestland. Findings are to be submit to the members of the House Agriculture Committee, the House Conservation and Environment Committee, the Senate Commerce, Labor and Agriculture Committee, and the Senate Environment, Conservation, and Tourism Committee by January 15, 2003.

**HB 3186 (Maddox)** from Transportation, changes the drivers license issuance process in Tennessee. If an individual does not have a social security number or proper INS documentation then the driver's license will only be issued for one year instead of five years and the license will have the statement "for driving purposes only" in bold red letters. The amendment also changes the photo identification card (different than the driver's license) and requires that you must have a social security number or proper INS documentation to receive an identification card.

**HB 2939 (Montgomery)** from Health and Human Resources, defines "hair-wrapping." Exempts hair wrappers from regulation by the Board of Cosmetology. Sixteen hours of training are required by a licensed school of cosmetology prior to providing hair-wrapping services.

**HB 2551 and HJR 836 (Rhinehart)** names highways in honor of local citizens.

**HB 3176 (Davidson)** from Education, allows private accredited schools to also conduct Montessori programs. Transfer funds for personnel to coordinate programs from Department of Human Services to Department of Education.

**HB 1416 (Rinks)** from Consumer and Employee Affairs, imposes additional requirements on staff leasing companies and licensees.

**HJR 770 (McDaniel)** renames the armory in Henderson in honor of "Major General Dan Wood." As amended in Finance, cost will be absorb by out-side state resources.

**HB 2650 (Turner, Brenda)** from Education allows any school system to enter into an agreement with a local law enforcement agency to enforce compulsory attendance with certain conditions. Local school boards are to form an advisory council to assist the board in formulating the agreements. Provides provisions for training teachers, principals, etc., in truancy issues.

**HB 3148 (McCord)** from Conservation and Environment, enacts the "Tennessee Water Resources Information Act."

**HB 3151 (Cole, Ronnie)** from Judiciary. As amended it revises the present law relating to the use of safety belts in passenger motor vehicles and deletes the provision specifying that safety belt requirements only apply to the operator and passengers occupying the front seat of a motor vehicle. It also increases the weight requirements for a "passenger car" or "passenger motor vehicle" from 8,500 to 10,000 pounds for the purposes of the seat belt law. It establishes a \$25 fine for violating the seat belt law with all proceeds designated for the Division of Vocational Rehabilitation. Specifies that \$15 of the \$25 fine for violations by those who are between 16 and 18 years of age would be deposited to the general fund, and the remaining \$10 would be designated for the Division of Vocational Rehabilitation. All revenue from subsequent violations by those who are between 16 and 18 years of age would be designated for the Division of Vocational Rehabilitation.

**HB 2465 (Head)** removes Franklin County from the contractor exemption statute.

*"Tennessee's Financial Challenge," as presented by Treasurer Steve Adams, as well as summaries of revenue plans presented before the Finance Committee on April 30<sup>th</sup>, begin on page 7.*

## **Government Operations**

*Ryan Swindell*

The full **House and Senate Government Operations Committees** will have a rule review hearing on Monday, May 6, 2002, at 1:30 P.M. in room 14 of the Legislative Plaza. The following departments/entities are scheduled to have rule changes reviewed: Finance and Administration, Wildlife Resources Agency, Labor and Workforce Development, Mental Health and Developmental Disabilities, State Board of Education, Environment and Conservation, University of Tennessee, Agriculture, Treasury, and Health.

## **Health & Human Resources**

*Judy Narramore*

The **Health & Human Resources Committee** met at noon on Tuesday with eight bills on the **final calendar**. Three bills were referred to FW&M. **HB 1266** by Rep. Wood as amended would create a joint study committee to study the need for placement of additional beds at private, not-for-profit ICF/MR facilities. **HB 2450** by Rep. Shepard as amended would enact the "Controlled Substance Monitoring Act of 2002." **HB 2479** by Rep. Patton as amended would allow the Department of Health to revoke a health professional's license who fails to repay a student loan or meet loan-related service requirements. **HB 2911** by Rep. Overbey was taken off notice. The remaining four bills on calendar were rolled to the next meeting subject to the call of the chair: **HB 1187** by Rep. McMillan, **HB 2228** by Rep. L. DeBerry, and **HB 2412** and **HB 2839** by Rep. Arriola.

The **Health subcommittees** are closed.

## **Judiciary**

*Paige Edwards*

On Wednesday, the **full Judiciary Committee** held its final meeting to consider three bills. **HB 2195** by Representative Bunch was taken off notice.

The committee referred **HB 3027** by Representative Kisber to **Finance, Ways, & Means**. **HB 3027** increases the award amounts under the criminal injury compensation fund. Also, this bill revises the procedure for a claimant to recover travel expenses incurred to attend the defendant's trial.

Also, the committee referred **HB 3232** by Representative Kisber to **Finance, Ways, & Means**. **HB 3232**, as amended, is a comprehensive bill implementing criminal penalties against individuals who engage in terrorist activity. NCSL, TBI, and TEMA participated in the creation of this legislation. The legislation presented to the committee was modeled after federal law and New York law.

Specifically, this bill would apply to activities that involve the intentional release of a dangerous chemical or hazardous material when a person knowingly utilizes such agents with the intent and for the purpose of causing harm

to persons either directly or indirectly through harm to animals or the environment. This bill creates criminal penalties for committing an act of terrorism. Also, this bill increases the criminal penalty for hoaxes and imposes criminal penalties against those individuals who assist in a terrorist plot. This bill would regard price gouging or the deliberate withholding of goods and services in response to any crime, act of terrorism, war, or natural disaster as an unfair or deceptive trade practice.

Also, this bill addresses public safety concerns. This bill would require TEMA to include a computerized telephone emergency warning system in the statewide emergency management plan. This bill would grant TBI with general jurisdiction to investigate terrorism activities.

During the committee meeting, **six amendments were adopted for HB 3232**. Due to the nature of this legislation, each amendment is summarized below.

#### *Amendment #1*

This amendment deletes section 9 of the original bill. Section 9 of the original bill specifies that records in connection with security measures adopted by the general assembly would not be subject to public access or inspection laws.

#### *Amendment #2*

This amendment applies to air carriers. This amendment would provide transportation security officers with the same rights, authority, and limitations as TVA peace officers. Transportation security officers would have the power to pursue fleeing suspects and make arrests. Also, transportation security officers would be authorized to carry weapons while in the performance of assigned duties. Transportation security officers would be required to complete law enforcement training substantially equivalent to the requirements of the Tennessee Peace Officer Standards and Training Commission.

#### *Amendment #3*

This amendment clarifies Section 39-13-803 in Section 1 of the printed bill. This amendment clarifies that no university, research institution, private company, individual, hospital, or other health care facility would be subject to the provisions of this act if the actions were taken for a lawful purpose in connection with research or treatment, and, as required, were licensed or registered with the Centers for Disease Control and Prevention.

#### *Amendment #4*

This amendment provides a procedure for law enforcement officers to obtain a subpoena for the production of documents or information to establish, investigate, or gather evidence for the prosecution of a criminal offense. A judge of the general sessions court in the law enforcement officer's jurisdiction or a judge of a court of record would be authorized to grant the request for a subpoena. Under this amendment, law enforcement officers could obtain records in a timely manner without a grand jury proceedings or a search warrant.

#### *Amendment #5*

This amendment amends the open record law. Under this amendment, records that identify areas of structural or operational vulnerability of a utility service provider or records that would permit unlawful disruption or interference with utility services would not be open for public inspection. Also, all contingency plans of a governmental entity to respond to or prevent any violent or terrorist act would not be open for public inspection. Documents concerning the costs associated with the government utility property or the government entity would not be confidential. This amendment defines a government entity, governmental utility and utility service provider for the purpose of this legislation.

#### *Amendment #6*

This amendment is a severability clause.

## **State & Local Government**

*Lawrence Hall, Jr.*

The **State and Local Government Committee** and its subcommittees are closed.

## **Transportation**

*Greg E. Adkins*

The **Transportation Committee** and its subcommittees are closed.

# Tennessee's Financial Challenge

*Cathy Higgins*

Following the full Finance, Ways & Means Committee meeting on Tuesday, Treasurer Steve Adams presented members with information on the state's "financial challenge."

For the current fiscal year, the state is facing a revenue shortfall of \$313.4 million. In addition to this is the funding required for the "supplemental appropriation" of \$32.8 million. The major portion of the supplemental funding is required to fund state employee group health insurance, retired teachers' insurance, etc. The amount needed for the current fiscal year is estimated at \$480.7 million. However, Mr. Adams stated that when the Funding Board meeting Wednesday, May 8, 2002, this amount may change some.

These are the numbers for the coming fiscal year (all millions):

Estimated Revenue Growth	\$208	
Recurring deficit	-195	
Revenue shortfall (minus supplemental)	-442	
Federal stimulus package impact	-100	Negative impact on F&E collections as result of accelerated depreciation on business equipment.
Net Revenue Growth	-529	This is the amount the State will have to raise in order to fund a continuation budget.
Mandatory Improvements	-249	This includes funding for children's services, BEP, employee health insurance, inflation cost for TennCare, statutory pay raises,
Compensation Package	-203	Non-mandatory salary increase for state employees, K-12 teachers, higher education, classification-compensation, and moving non-recurring grants back to recurring (i.e., police and fireman pay supplements, soil conservation, governor's school, etc.).
Proposed Capital Projects	- 69	Includes bonds and state dollars
Other funding priorities	-234	K-12 reading initiative, higher education improvements, etc.
Rainy Day Fund	-128	Restore balance
<b>Estimate needed for FY 02-03</b>	<b>\$1.4 billion</b>	

During the floor session on Wednesday, April 24th, Chairman Kisber invited any member who wanted to present a revenue plan to this week's committee meeting. After Mr. Adams' presentation, the plans were presented.

**Speaker Naifeh** was the first to present a plan. The Speaker's plan is a 4.5 percent flat income tax with exemptions of \$15,000 for single, \$30,000 for married filing jointly, \$1,500 per dependent and 50% of capital gains. The plan repeals the Hall Income Tax, removes all sales tax on grocery food, clothing and non-prescription drugs. It provides for a 6% limit on the state's spending from taxes with an automatic rebate. The plan nets approximately \$1.1 billion.

**Representative Buck's** plan proposed raising the "sin" taxes. The cigarette tax would increase to \$0.25 per pack from \$0.13 and other tobacco products to 11.5% from 6.0%. The wine tax would increase to \$2.38 from \$1.10 per gallon; spirits to \$7.20 from \$4.00 per gallon; and beer to \$20.43 from \$3.90 per barrel. As a result of these increases, sales tax collections would increase as well by \$13.8 million. The proposal also includes an increase to \$46.50 from \$21.50 for motor vehicle registration and extends the Hall Income Tax to untaxed capital gains. The proposal nets approximately \$367 million.

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**Representative Westmoreland's** proposal is referred to as the "Singular Exchange Tax" which enacts a tax on the exchange of goods/services, and earnings. The state exchange tax rate would be 3.25% and the local exchange tax rate would be 1.250%. Exemptions include health care, goods sold for retail, industrial machinery and raw materials used in manufacturing, sales of goods and services to the federal government, food stamps, and agricultural products in the hands of the producer. Earnings include "active earnings" exchanges such as wages, salaries, and compensation, and "passive earnings" exchanges such as interest, dividends, and capital gains. The earning exchange tax would apply to individuals and corporate net earnings. There would be a "hold harmless" provision for local governments' loss of revenue from the Hall Income Tax.

Current taxes that would be repealed:

- Sales and use tax
- Hall income tax
- Franchise and Excise Taxes
- Inheritance and Estate Taxes
- Professional Privilege Tax
- Gross Receipts Tax
- Manufacturers and bottlers of soft drinks
- Vending machines, coin-operated amusement devices

Current taxes and fees that would not be repealed:

- Gasoline tax
- Motor fuel tax
- Gasoline inspection tax
- Motor vehicle registration tax
- Motor vehicle title fees
- Gross receipts tax – TVA
- Business tax (local tax shared with state)

The existing sales and use tax structure could be used to administer the tax along with the franchise/excise tax structure for corporate net earnings. The plan nets approximately \$1.3 billion to the State and \$1.5 billion to local governments.

**Representative Dunn's** proposal also raises the "sin" taxes. The cigarette tax would increase to \$0.19 per pack from \$0.13. The wine tax would increase to \$1.40 from \$1.10 per gallon; spirits to \$4.48 from \$4.00 per gallon; and beer to \$7.14 from \$3.90 per barrel. The plan nets approximately \$40.6 million for the State and \$4.1 million to local governments.

**Representative Sharp's** plan would extend the sales tax to services and exemptions and increase "sin" taxes, effective in August. During the November 5th election, voters would vote on whether to call for a constitutional convention on tax reform. If the convention were approved, the sales tax changes implemented in August would remain in place until the Convention in 2004. The rate would be 5% with few exemptions remaining. The sales tax on medical services would be capped at \$500 per person/per year. Sales tax on manufacturing energy and fuel for production of food would increase to 3%. A 2% sales tax would be imposed on gas and diesel fuel. This plan nets approximately \$1.5 billion.

If the convention were not approved, then the state would implement a 3.7% flat income tax and a uniform sales tax rate of 7%. If the income tax plan were implemented, the Hall Income Tax and the local option sales tax would be repealed. Sales tax on food, clothing and non-prescription drugs would be eliminated. This plan nets approximately \$1.3 billion.

*For Additional Information,  
Call The House Research Division  
At 714--3025.*